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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,787	04/03/2002	Mohamed El-Sherbeini	20522P	1046

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MERCK AND CO INC  
P O BOX 2000  
RAHWAY, NJ 070650907

EXAMINER

DEVI, SARVAMANGALA J N

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/089,787

Applicant(s)

EL-SHERBEINI ET AL

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 10-16 ~~is/are~~ are pending in the application.
- 4a) Of the above claim(s) 5 and 10-16 ~~is/are~~ are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3 and 4 ~~is/are~~ are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **RESPONSE TO APPLICANTS' AMENDMENT**

### **Applicants' Amendment**

- 1) Acknowledgment is made of Applicants' amendment filed 03/24/04 in response to the non-final Office Action mailed 12/22/03. With this, the specification has been amended.

### **Status of Claims**

- 2) Claims 2 and 6-9 have been canceled via the amendment 03/24/04.

Claims 1, 3-5, and 10-16 are pending.

Claims 5 and 10-16 are withdrawn from consideration as being directed to non-elected inventions. See 37 C.F.R. 1.142(b) and M.P.E.P. § 821.03.

Claims 1, 3 and 4 are under examination.

### **Prior Citation of Title 35 Sections**

- 3) The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior Office Action.

### **Prior Citation of References**

- 4) The references cited or used as prior art in support of one or more rejections in the instant Office Action and not included on an attached form PTO-892 or form PTO-1449 have been previously cited and made of record.

### **Objection(s) Withdrawn**

- 5) The objection to the specification made in paragraph 6(i) of the Office Action mailed 06/06/03 is withdrawn in light of Applicants' amendments to the specification.

### **Objection(s) Moot**

- 6) The objection to claim 2 made in paragraph 13 of the Office Action mailed 06/06/03 is withdrawn in light of Applicants' cancellation of the claim.

### **Objection(s) Maintained**

- 7) The objection to the specification made in paragraph 6(ii) of the Office Action mailed 06/06/03 is maintained for reasons set forth therein. Applicants assure the Office that they would address this issue at a later stage.

### **Rejection(s) Moot**

- 8) The rejection of claims 6-9 and those that depend therefrom under 35 U.S.C. § 101 as being

directed to a non-statutory subject matter, is moot in light of Applicants' cancellation of the claims.

9) The rejection of claim 6 made in paragraph 10(a) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is moot in light of Applicants' cancellation of the claim.

10) The rejection of claim 6 made in paragraph 10(b) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is moot in light of Applicants' cancellation of the claim.

11) The rejection of claim 6 made in paragraph 10(c) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is moot in light of Applicants' cancellation of the claim.

12) The rejection of claim 7 made in paragraph 10(e) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is moot in light of Applicants' cancellation of the claim.

13) The rejection of claims 2 and 7-10 made in paragraph 10(d) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is moot in light of Applicants' cancellation of the claims.

14) The rejection of claims 6-9 made in paragraph 12 of the Office Action mailed 06/06/03 under 35 U.S.C. § 102(e)(2) as being anticipated by Rubenfield *et al.* (US 6,551,795 B1 - Applicants' IDS), is moot in light of Applicants' cancellation of the claims.

#### **Rejection(s) Withdrawn**

15) The rejection of claim 1 made in paragraph 10(a) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

16) The rejection of claim 1 made in paragraph 10(b) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

17) The rejection of claim 1 made in paragraph 10(c) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

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18) The rejection of claim 3 made in paragraph 10(d) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

19) The rejection of claims 3 and 4 made in paragraph 10(d) of the Office Action mailed 06/06/03 under 35 U.S.C. § 112, second paragraph as being indefinite, is withdrawn in light of Applicants' amendment to the claims and/or the base claim.

20) The rejection of claims 1, 3 and 4 made in paragraph 12 of the Office Action mailed 06/06/03 under 35 U.S.C. § 102(e)(2) as being anticipated by Rubenfield *et al.* (US 6,551,795 B1 - Applicants' IDS), is withdrawn in light of Applicants' amendment to the claims and/or the base claim.

#### Remarks

21) Claims 1, 3 and 4 have allowable subject matter. For clarity and consistency with the claim language used in claim 1(b), in claim 1(a), it is suggested that Applicants replace the recitation 'an amino acid sequence' with --the amino acid sequence--.

This application contains claims drawn to non-elected inventions. A complete reply to the final rejection must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

22) **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

23) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the

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notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.

**24)** Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. The Examiner can normally be reached on Monday to Friday from 7.45 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system. A message may be left on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

May, 2004

  
S. DEVI, PH.D.  
PRIMARY EXAMINER